

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

FLUOR CORPORATION,

Plaintiff/Counterclaim Defendant,

v.

ZURICH AMERICAN INSURANCE  
COMPANY,

Defendant/Counterclaim Plaintiff.

No. 4:16CV00429 ERW

**MEMORANDUM AND ORDER**

This matter comes before the Court on Non-Party The Doe Run Resources Corporation's Motion to Seal Portions of the Record [677] and Supplement to its Motion to Seal Portions of the Record [717]. On July 15, 2021, Doe Run filed its Motion seeking to seal certain materials to be used in the trial of this case. After the parties permitted Doe Run to examine their potential trial exhibits, Doe Run filed a Supplement to its Motion to Seal on July 26, 2021, specifically identifying in an appendix potential trial exhibits Doe Run sought to have sealed if presented by the parties at trial. Doe Run alleges these materials contain Doe Run's confidential information, including settlement amounts and privileged communications. Specifically, in its Motion and Supplement, Doe Run requested the Court seal the following categories of materials: the deposition transcripts of Andrew Rothschild and Edward Dowd<sup>1</sup>, Fluor's Trial Exhibit List [ECF No. 656-1], and Zurich and Fluor's trial exhibits identified by Doe Run in an appendix along with the trial record related to those exhibits.

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<sup>1</sup> In their pretrial submissions, both Zurich and Fluor indicated their intentions to introduce testimony from the depositions of Mr. Rothschild and Mr. Dowd.

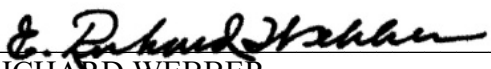
After Doe Run filed its Motion, summary judgment was granted against Fluor on its second cause of action for bad faith failure to settle and Zurich's fourth cause of action seeking a declaration on exhaustion was dismissed as moot. Thereafter, the parties stipulated to dismiss with prejudice the remaining two claims in the case. Final Judgment in this case was entered by the Court on September 27, 2021.

The relief sought in Doe Run's Motion prospectively asks to seal certain exhibits and testimony the parties may have presented in the trial of this matter. As the case did not proceed to trial and is now closed, the Court will deny this request as moot. However, Doe Run also requested the Court seal a document filed by Fluor which is publicly available on the record-- Fluor's Trial Exhibit List dated July 23, 2021 [ECF No. 656-1]. Doe Run alleges Fluor's publicly filed Trial Exhibit List states descriptions disclosing confidential and privileged information, including the amount Zurich contributed to a 2009 settlement. Doe Run asks the Court to seal the List in its entirety, but alternately suggests Doe Run could submit a redacted version of the Trial Exhibit List. The Court will seal Fluor's Exhibit List at ECF No. 656-1 and orders Doe Run and Fluor to jointly file a redacted version of this List.

Accordingly,

**IT IS HEREBY ORDERED** Third Party Doe Run's Motion to Seal [677] is **GRANTED in part** and **DENIED in part** as stated above. The Court orders Fluor's Trial Exhibit List at ECF No. 656-1 be sealed and orders Doe Run and Fluor to jointly file a redacted version of Fluor's Trial Exhibit List by November 15, 2021.

Dated this 21st day of October, 2021.

  
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E. RICHARD WEBBER  
SENIOR UNITED STATES DISTRICT JUDGE